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Claudia Valera

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Dmitry A. Raykhman

SERIAL NO. : 09/415,392

FILED : 10/08/1999

FOR : Real-Time Commodity Trading Method and Apparatus

GROUP ART UNIT : 4774

EXAMINER : James S. McClellan

-----------------Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

1. REAL PARTY IN INTEREST

The real party of interest in the present application is the assignee, RFV Holdings Ltd., a corporation formed under the laws of the British Virgin Islands, having a primary business address at Palm Chambers, P.O. Box 11, Road Town, Tortola, British Virgin Islands. RFV Holdings Ltd. has a local address as follows:

c/o CHOICE FX and CTN Systems Corp.
1679A East 16th Street
P.O. Box 018
Brooklyn, NY 11229

2. RELATED APPEALS AND INTERFERENCES

On information and belief, there are no cases currently on appeal before the Board which may have a bearing on the Board's decision in the instant Appeal.

3. STATUS OF CLAIMS

Claims 1-8, 10-13, 16-25, and 55-66 are pending in the application. Claims 9, 14, 15, 26-54, and 67-73 have been canceled. Claims 1, 16, 22, 55, and 58 are the only independent claims. All of the pending claims stand rejected under 35 U.S.C. § 102(b) as being anticipated by, or under 35 U.S.C. § 103(a) as being unpatentable over, prior art.

The appealed claims are set forth in Appendix A.

4. STATUS OF AMENDMENTS

All Amendments have been entered.

5. SUMMARY OF THE INVENTION

As set forth in currently amended claim 1, a method for trading a commodity comprises (a) receiving, in encoded form via a computer network, a plurality of bids and a plurality of offers pertaining to a common commodity (page 3, lines 4-5; page 23, lines 15-19), (b) displaying the bids and offers on a computer monitor (page 3, lines 5-6; page 24, lines 12-13), (c) generating a trading offer including a trading rate or price per unit of the commodity, and a number of units of the commodity (page 3, lines 6-7; page 18, lines 14-19; page 24, lines 15-17), (d) automatically calculating a total stop amount for the trading offer (page 3, lines 7-8; page 24, lines 19-22), (e) automatically comparing the total stop amount with an available amount in a client or trader account (page 3, lines 8-9; page 24, lines 19-22; page 40, lines 17-22), and (f) transmitting a digital signal encoding the trading offer over the computer network for distribution to multiple traders (page 3, lines 10-11; page 33, lines 5-9). As set forth in claim 1, the total stop amount is a monetary amount required to cover a stop execution on the trading offer, the

total stop amount including a primary quantity equal to a stop value multiplied by the number of units of the commodity included in the trading offer. (Page 19, lines 15-18.)

A step may be performed of automatically allocating or reserving the total stop amount of claim 1 from the available amount in the client or trader account. (Page 3, lines 16-17; page 40, line 20, through page 41, line 2.)

The digital signal of claim 1 is transmitted upon and only upon a determination that the total stop amount is less than the available amount in the client or trader account. (Page 3, line 23, through page 4, line 2; page 41, lines 4-8; page 41, lines 4-8.)

The generating of the trading offer and the comparing of the total stop amount with the available amount in the client or trader account are performed by a client or trader computer connected to the computer network. (Page 4, lines 3-5; page 40, lines 7-22, and Fig. 12.)

The trading offer additionally includes identification of the stop value as a stop amount per unit of the commodity. (Page 4, lines 8-9; page 24, lines 17-18.)

The method of claim 1 may further comprises displaying on the monitor a prompt for entry of a stop value, and determining that a respective stop value has been selected for the trading offer, and forwarding, via the computer network, the respective stop value to a server computer together with the trading offer. (Page 4, lines 12-15; page 27, lines 19-22.)

As recited in claim 16, a currency trading method comprises (i) receiving, via a computer network, digital signals together encoding a plurality of bids and a plurality of offers pertaining to a common currency (page 4, line 22, through page 5, line 2; page 23, lines 15-19), (ii) displaying the bids in a first monotonic sequence on a computer monitor (page 5, lines 2-3; page 25, lines 13-17; page 37, lines 14-16), (iii) simultaneously displaying the offers in a second monotonic sequence on the computer monitor (page 5, lines 3-4; page 25, lines 13-17; page 37, lines 14-16), (iv) monitoring a computer input device (page 5, lines 4-5; page 24, lines 15-17; page 37, liens 16-19) and (v) upon detecting a signal from the input device of a predetermined type encoding a trading order for requesting a transaction on one of the bids and offers (page 32, lines 14-16), automatically calculating a total currency amount for carrying out the order and

comparing the total currency amount with a capital amount available in a given account to determine if the capital amount is sufficient (page 33, lines 1-5). Upon and only upon determining that sufficient capital is available in the account is an order signal transmitted over the computer network to a server computer, the order signal encoding the trading order. (Page 33, lines 5-9.)

As set forth in claim 22, a method for use in trading currencies comprises displaying, on a computer monitor connected to a computer in turn connected to a computer network, a plurality of prompts for particulars of a trading offer, the prompts including a prompt to enter a price per unit of a currency and a total number of units of the currency. (Page 5 lines 9-12; page 27, lines 10-18.) Upon entry, via an input device of the computer, of a trading offer including at least a price per currency unit and a total number of currency units (page 5, lines 12-13; page 27, lines 10-18), an automatic determination is made as to whether sufficient capital exists in a given account of a trader utilizing the computer, to cover a trade executable on the trading offer for the total number of currency units. (Page 33, lines 1-5.) Upon and only upon determining that sufficient capital exists in the given account is the trading offer forwarded over the computer network to other traders on the computer network. (Page 33, lines 5-9.)

As set forth in claim 55, a currency trading method comprises (a) receiving at a server computer a first digital signal over a computer network from a client's computer, the first digital signal encoding a trading offer including identification of a currency, a trading rate or price per unit of the currency, and a number of units of the currency (page 33, lines 10-12; page 18, lines 14-19), (b) operating the server computer to maintain (i) a first queue of bids ordered by price per currency unit and times of extending of the respective bids and (ii) a second queue of offers to sell ordered by price per currency unit and times of extending of the respective offers to sell (page 11, line 20, through page 12, line 4; page 34, lines 1-2), (c) operating the server computer to determine whether the trading offer matches any entry in the first queue and the second queue (page 12, lines 5-7; page 33, lines 12-15; page 33, lines 10-22), and (d) upon detection by the server computer of a match between the trading offer and a particular entry in the one of the first

queue and the second queue, operating the server computer to (i) modify accounts of traders who made the trading offer and the particular entry, (ii) remove the particular entry from the one of the first queue and the second queue, (iii)) transmit signals over the computer network to advise all logged-in traders of the match, and (iv) send specific confirmation to the traders who made the trading offer and the particular entry (page 12, lines 7-12; page 34, lines 1-7).

6. ISSUES

Whether claims 1, 4-8, 10-13, 58, and 61-66 are properly rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Whether claims 16, 17, 22, 55, and 56 are properly rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,136,501 to Silverman et al. ("Silverman").

Whether claims 2, 3, 59, and 60 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Wagner in view of the publication Equis International AAII Computerized Investing Newsletter May/June 1998 (hereinafter Equis).

Whether claims 18-20 and 23-25 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Silverman in view of U.S. Patent No. 6,029,146 to Hawkins et al. ("Hawkins").

Whether claim 21 is properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Silverman in view of U.S. Patent No. 5,845,265 to Woolston.

Whether claim 57 is properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Silverman in view of U.S. Patent No. 5,924,082 to Silverman et al.

7. GROUPING OF CLAIMS

With respect to the issues under 35 U.S.C. §§ 102(b) and 103(a), the following claims groupings are believed to be proper.

Claim 1, 2, 3, 5, 8, 13, 58-60, 62, 63, and 66 are deemed to stand or fall together, separately from all of the other claims on appeal in the application, and particularly separately

from independent claims 16, 22, and 55.

Dependent claims 4 and 61 are deemed to stand or fall together, separately from all of the other claims on appeal in the application. As discussed in the Argument section below, claim 4 presents subject matter that is unique with respect to the other claims (other than claim 61) and further distinguishes the invention of claim 1 over the cited art. Claim 61 recites the same limitation as claim 4 and similarly limits the subject matter of independent claim 58.

Dependent claims 6 and 64 are deemed to stand or fall together, separately from all of the other claims on appeal in the application. As discussed in the Argument section below, claim 6 presents subject matter that is unique with respect to the other claims (other than claim 64) and further distinguishes the invention of claim 1 over the cited art. Claim 64 recites the same limitation as claim 6 and similarly limits the subject matter of independent claim 58.

Dependent claims 7 and 65 are deemed to stand or fall together, separately from all of the other claims on appeal in the application. As discussed in the Argument section below, claim 7 presents subject matter that is unique with respect to the other claims (other than claim 65) and further distinguishes the invention of claim 1 over the cited art. Claim 65 recites the same limitation as claim 7 and similarly limits the subject matter of independent claim 58.

Dependent claim 10 is deemed to stand or fall separately from all of the other claims on appeal in the application. As discussed in the Argument section below, claim 10 presents subject matter that is unique with respect to the other claims and further distinguishes the invention of claim 1 over the cited art.

Dependent claim 11 is deemed to stand or fall separately from all of the other claims on appeal in the application. As discussed in the Argument section below, claim 11 presents subject matter that is unique with respect to the other claims and further distinguishes the invention of claim 1 over the cited art.

Independent claim 16 and dependent claims 17-21 are deemed to stand or fall together, separately from all of the other claims on appeal in the application, and particularly separately from independent claims 1, 22, 55, and 58. As discussed in the Argument section below, claim

16 presents subject matter that is unique with respect to the other claims and distinguishes the invention of claim 16 over the cited art.

Independent claim 22 and dependent claims 23-25 are deemed to stand or fall together, separately from all of the other claims on appeal in the application, and particularly separately from independent claims 1, 16, 55, and 58. As discussed in the Argument section below, claim 22 presents subject matter that is unique with respect to the other claims and distinguishes the invention of claim 22 over the cited art.

Independent claim 55 and dependent claims 56 and 57 are deemed to stand or fall together, separately from all of the other claims on appeal in the application, and particularly separately from independent claims 1, 16, 22, and 58.

The reasons for the above groupings will be apparent from the differing arguments for patentability given below.

8. ARGUMENT

A. Rejection of Independent Claim 1 Under 35 U.S.C. §102(b)

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Appellant traverses the Examiner's rejection of claim 1 under 35 U.S.C. § 102(b) and maintains that claim 1 distinguishes the invention over the prior art and particularly over Wagner.

As set forth in currently amended claim 1, a method for trading a commodity comprises (a) receiving, in encoded form via a computer network, a plurality of bids and a plurality of offers pertaining to a common commodity, (b) displaying the bids and offers on a computer monitor, (c) generating a trading offer including a trading rate or price per unit of the commodity, and a number of units of the commodity, (d) automatically calculating a total stop amount for the trading offer, (e) automatically comparing the total stop amount with an available amount in a client or trader account, and (f) transmitting a digital signal encoding the trading

offer over the computer network for distribution to multiple traders. As set forth in claim 1, the total stop amount is a monetary amount required to cover a stop execution on the trading offer, the total stop amount including a primary quantity equal to a stop value multiplied by the number of units of the commodity included in the trading offer.

In rejecting claim 1 under 35 U.S.C. § 102(b), the Examiner contends that the automatic calculation of a total stop amount for the trading offer is taught by Wagner in column 8, lines 36-39, that the definition of a "total stop amount" is taught by Wagner at column 20, lines 14-62.

Appellant disputes the Examiner's contentions. As set forth in amended claim 1, the term "total stop amount" refers to a monetary amount required to cover a stop execution on the trading offer, the total stop amount including a primary quantity equal to a stop value multiplied by the number of units of the commodity included in the trading offer.

The excerpts of Wagner particularly relied on by the Examiner with respect to Appellant's total stop amount calculation are as follows:

> Inasmuch as each member is limited in the amount of trading that can be done, the clearing system 38 is constantly checking so that the limitations cannot be violated.

and

> Clearing system 38 establishes Commodity Futures Trading Commission (CFTC) requirements and regulations to be observed during the trading process. It determines the validity of each transaction by comparing the transaction data with the CFTC requirements and regulations. The clearing system 38 receives data from the master trade file 596 on line 600 and sorts the data by clearing member and trade type (house/customer). Further, the clearance and position module 602 calculates the gross position report for the CFTC. This means that it keeps track of all trades of any member in total. It compares trades with position limits established at position limit unit 604 to see that the trader is staying within limits which are set by the exchange through control terminal 50 on lines 606. Thus, the exchange enters through control terminal 50 (a keyboard, for example) the data necessary to establish position limits for each customer and stores those in clearance and position module 602. The gross position report of any particular trader can be made into a printout at 606 so that a written copy of the position of each member can be obtained as necessary. In addition, the clearance and position module 602 calculates net and offset positions by

> clearing member (house, customer and total). These positions can also be printed at 608 and 610 to have a written report. Thus, clearance and position module 602 verifies position limits and open positions by commodity and members.
>
> In addition, clearance and position module 602 forwards positions through the margin processing module 612 on line 614 for margin calculation. Again, the margin limits are established through control terminal 50 which couples an output on line 616 to the margin processing module 612 for establishing those limits. At that point, the margin processing module 612 calculates original (initial) and variation margin requirements. It also calculates advance and special margin requirements which have been entered through control terminal 50. It summarizes margin requirements by clearing member and house/customer activity. This data can then be forwarded on line 618 to the financial and report module 620 which prepares clearing reports for clearing corporation members and the exchange. It provides a trade register, position and margin summary and the like. It updates the bank account and provides information for reconciliation module 622. It also prints the clearing reports at 624 where written reports are desired. These written reports can be made available to the exchange itself, to members of the exchange, and to the CFTC.

Wagner, and particularly these excerpts of that reference, says nothing about a total stop amount as that term is defined in claim 1, namely, a monetary amount required to cover a stop execution on the trading offer, where the total stop amount includes a primary quantity equal to a stop value multiplied by the number of units of the commodity included in the trading offer. The above excerpt refers to margin trading, but that is a different method of controlling or limiting losses. Margin limits are not designed to cover stop executions on trading offers. Moreover, nothing in Wagner specifically defines a total stop amount as including a primary quantity equal to a stop value multiplied by the number of units of the commodity included in the trading offer.

The present invention as set forth in claim 1 provides a trading system which does not exist in conventional futures trading, for instance, as contemplated by Wagner. Conventional futures trading does not entail the automatic calculation of a total stop amount in response to the generation of a trading offer (including a trading rate or price per unit of the commodity, and a number of units of the commodity). Instead, in conventional futures (and stock) trading, brokerage firms require that persons trading on margin maintain adequate amounts in respective

trading accounts to protect the brokerage firms from possible losses arising from trades that the persons have already made.

The Examiner maintains that Wagner inherently discloses Appellant's total stop amount because Wagner constantly checks to ensure that sufficient funds are available (col. 8, lines 24-44). Appellant traverses the Examiner's finding of inherency. The funds referred to in the Wagner disclosure are not the same as the total stop amount of Appellant's claim 1.

B. Rejection of Dependent Claim 4 Under 35 U.S.C. §102(b)

Claim 4 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Appellant traverses the rejection of claim 4 for the reasons set forth hereinabove with reference to claim 1 and for additional reasons set forth hereinafter.

The advantage and use of the invention as set forth in claim 1 is clarified in the recitations of claim 4. Claim 4 recites the step of automatically allocating or reserving the total stop amount of claim 1 from the available amount in the client or trader account. This ensures protection for the brokerage organization when the customers or clients are engaged in margin trading. Wagner neither discloses nor suggests the automatic allocation or reservation of a calculated total stop amount from the available amount in a client or trader account. The clearing system (38, block 72, Figure 2) referred to by the Examiner neither calculates total stop amounts, as that term is used in Appellant's claims, nor executes an automatic allocation or reservation of a calculated total stop amount from the available amount in a client or trader account. Instead, the clearing system does what conventional clearing systems do, namely, executes trades on matching bids and offers and carries out the requisite transfer of funds to complete the trades.

The Examiner points to block 72 of Wagner Figure 2 in rejecting claim 4; however, reliance on that drawing figure does not constitute even a prima facie obviousness rejection of

claim 4, let alone an anticipation of that claim. In relying on Wagner, the Examiner has provided no evidence at all in support of his rejection of claim 4.

C. Rejection of Dependent Claim 6 Under 35 U.S.C. §102(b)

Claim 6 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Appellant traverses the rejection of claim 6 for the reasons set forth hereinabove with reference to claim 1 and for additional reasons set forth hereinafter.

The advantage and use of the invention as set forth in claim 1 is additionally clarified in the recitations of claim 6. Claim 6 recites that the digital signal of claim 1 is transmitted upon and only upon a determination that the total stop amount is less than the available amount in the client or trader account. Where the total stop amount cannot be reserved from the client or trade account, the trading offer which initiated the stop amount calculation is not even communicated to other trades and therefore does not exist as an offer. This feature of the invention does not exist in the computer-network-mediated system taught by Wagner. The Examiner points to block 72 of Wagner Figure 2 in rejecting claim 6; however, reliance on that drawing figure does not constitute even a prima facie obviousness rejection of claim 6, let alone an anticipation of that claim. In relying on Wagner, the Examiner has provided no evidence at all in support of his rejection of claim 6.

D. Rejection of Dependent Claim 7 Under 35 U.S.C. §102(b)

Claim 7 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Appellant traverses the rejection of claim 7 for the reasons set forth hereinabove with reference to claim 1 and for the additional reason that Wagner neither actually nor inherently

discloses a method wherein the generating of a trading offer and the comparing of a total stop amount with the available amount in a client or trader account are performed by a client or trader computer connected to said computer network. In Appellant's system, the trading offer is initially generated by the client or trader computer but only if the total stop amount required to cover execution of a stop order on the transaction of the trading offer is met by the funds in the client's account as tracked by the client's or trader's own computer. In contrast, in Wagner it is a central clearing house that calculates funds requirements (margin amounts, not total stop amount, as discussed above). Pursuant to the teachings of Wagner, the individual client or trader computers transmit trading orders, without regard to fund limitations. Thus, there is no reason for the client or trader computers to engage in such fund computations.

E. Rejection of Dependent Claim 10 Under 35 U.S.C. §102(b)

Claim 10 additionally stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Appellant traverses the rejection of claim 10 for the reasons set forth hereinabove with reference to claim 1 and for the additional reason that Wagner neither actually nor inherently discloses a method wherein a trading offer additionally includes identification of a stop value as a stop amount per unit of a commodity.

The Examiner merely concludes that Wagner teaches the subject matter of claim 10, when in fact Wagner is completely silent on the subject. The Examiner evidently finds it inherent to include in a trading offer an identification of a stop value as a stop amount per unit of a commodity. The paragraph bridging columns 15 and 16 of the Wagner patent refers to conditional orders such as stops; however, the stop value of Appellants claims 1 and 10 does not refer to a stop order. Instead, it refers to an amount of money.

F. Rejection of Dependent Claim 11 Under 35 U.S.C. §102(b)

Claim 11 additionally stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,980,826 to Wagner.

Appellant traverses the rejection of claim 11 for the reasons set forth hereinabove with reference to claim 1 and for the additional reason that Wagner neither actually nor inherently discloses a method including displaying on the computer monitor a prompt for entry of a stop value, determining that a respective stop value has been selected for the trading offer, and forwarding, via the computer network, the respective stop value to a server computer together with the trading offer.

The Examiner finds the entire subject matter of claim 11 inherent because it is customary to display monetary amounts on a computer screen in a computer mediated financial transaction. More specifically, the Examiner refers to the paragraph bridging columns 15 and 16 of the Wagner patent. However, that passage says nothing about determining that a respective stop value has been selected for the trading offer, and forwarding, via the computer network, the respective stop value to a server computer together with the trading offer.

G. Rejection of Independent Claim 16 Under 35 U.S.C. §102(b)

Claim 16 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,136,501 to Silverman et al. ("Silverman").

Appellant traverses the Examiner's rejection of claim 16 under 35 U.S.C. § 102(b) and maintains that claim 16 distinguishes the invention over the prior art and particularly over Silverman.

As recited in claim 16, a currency trading method comprises (i) receiving, via a computer network, digital signals together encoding a plurality of bids and a plurality of offers pertaining to a common currency, (ii) displaying the bids in a first monotonic sequence on a computer monitor, (iii) simultaneously displaying the offers in a second monotonic sequence on the computer monitor, (iv) monitoring a computer input device, and (v) upon detecting a signal from the input device of a predetermined type encoding a trading order for requesting a transaction on one of the bids and offers, automatically calculating a total currency amount for carrying out the order and comparing the total currency amount with a capital amount available in a given account to determine if the capital amount is sufficient. Upon and only upon determining that sufficient capital is available in the account is an order signal transmitted over the computer network to a server computer, the order signal encoding the trading order.

Silverman is directed to a matching-type trading method wherein bids, offers, hits and takes electronically submitted over a network are transmitted to all participants or keystations by a central system. Matching bids, offers, hits and takes lead to an executed trade only after a check has been made that a gross counterparty credit limit would not be exceeded if the trade were executed. This gross counterparty credit limit is an amount determined by credit limits set by the parties to the prospective trade prior to the submission of the respective bids, offers, hits, and takes.

Thus, it is a central and indispensable feature of the Silverman methodology that bids, offers, hits, and takes are submitted to the central system (20) and from thence to the participants at their respective keystations prior to any computation of credit limits or accounts. (Actually, Silverman says nothing about accounts. See below.) In contrast, in Appellant's method as set forth in amended claim 16, a trading order is not communicated, i.e., is not submitted to a server or to participating traders, unless it has been automatically determined that the party tendering order has ***funds*** in a pre-established or given account to cover the order. Silverman says nothing about automatically calculating a total currency amount for carrying out a trading order, comparing the total currency amount with a ***capital amount available in a given account***, and

transmitting an order signal on the trading order upon and only upon determining that sufficient capital is available in the account.

To the extent that Silverman teaches a computation of a monetary amount, that monetary amount is not compared with a capital amount (actual funds) in a given account, but rather to credit limits that the parties impose on one another. As stated in Silverman,

> Each of the keystations or client sites in the system assigns trading party credit limits to the other client sites in the system with which it is desired to trade, with these trading party credit limits being maintained anonymously by the host computer and being used by the host computer to anonymously determine gross counterparty credit limits for each potential matching transaction. (Col. 3, lines 27-34.)
>
> The host computer anonymously matches active bids and offers in the system based on a variable matching criteria which includes the gross counterparty credit limit between counterparties to a potential matching transaction, price, and available quantity. (Col 3, lines 39-43.)

Silverman does not teach comparing a total currency amount for carrying out an order with a ***capital amount available in a given account*** to determine if the capital amount is sufficient. Silverman's comparison is with one or more ***credit limits*** set by the potential parties to a transaction.

H. Rejection of Independent Claim 22 Under 35 U.S.C. §102(b)

Claim 22 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,136,501 to Silverman et al. ("Silverman").

Appellant traverses the Examiner's rejection of claim 22 under 35 U.S.C. § 102(b) and maintains that claim 22 distinguishes the invention over Silverman.

As set forth in claim 22, a method for use in trading currencies comprises displaying, on a computer monitor connected to a computer in turn connected to a computer network, a plurality of prompts for particulars of a trading offer, the prompts including a prompt to enter a price per unit of a currency and a total number of units of the currency. Upon entry, via an input device of the computer, of a trading offer including at least a price per currency unit and a total number of

currency units, an automatic determination is made as to whether sufficient capital exists in a given account of a trader utilizing the computer, to cover a trade executable on the trading offer for the total number of currency units. Upon and only upon determining that sufficient capital exists in the given account is the trading offer forwarded over the computer network to other traders on the computer network.

Appellant's specification defines the term "trading offer" in claim 22 to mean an offer to buy (bid) a commodity or an offer to sell (offer) the commodity.

Silverman neither discloses nor suggests (A) making an automatic determination as to whether sufficient capital exists, in a given account of a trader entering a trading offer via a computer, to cover a trade executable on the trading offer for a specified total number of currency units, ***and*** (B) forwarding the trading offer over a computer network to other traders upon and only upon determining that sufficient capital exists in the given account. Pursuant to Silverman, trading offers (bids, offers, hits, and takes) are transmitted from an originating keystation to other keystations as a matter of course, prior to and independently of whether any credit check or funds calculation is made. A check as to credit sufficiency is made only after the trading offers are transmitted to the keystations.

In maintaining his rejection of claim 22, the Examiner contends that Silverman "discloses 'blocking or inhibiting' completion of the transaction when the user fails to have sufficient funds to complete the transaction (see col. 3, lines 55-60)." Appellant's claim 22 blocks the transaction from the beginning, in contrast to the method of Silverman, which blocks only the ***completion*** of a transaction. Pursuant to the teachings of Silverman, the various trading offers are communicated to all the participants, prior to a credit limit check by the host computer. The host computer blocks completion of a transaction, but only after a trading offer has been communicated. In Silverman, all of the parties are aware that a transaction has been requested. Pursuant to Appellant's claim 22, the trading offer by one trader is blocked before being communicated to other traders on the network.

I. Rejection of Independent Claim 55 Under 35 U.S.C. §102(b)

Claim 55 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,136,501 to Silverman et al. ("Silverman").

Appellant traverses the Examiner's rejection of claim 55 under 35 U.S.C. § 102(b) and maintains that claim 55 distinguishes the invention over Silverman.

As set forth in claim 55, a currency trading method comprises (a) receiving at a server computer a first digital signal over a computer network from a client's computer, the first digital signal encoding a trading offer including identification of a currency, a trading rate or price per unit of the currency, and a number of units of the currency, (b) operating the server computer to maintain (i) a first queue of bids ordered by price per currency unit and times of extending of the respective bids and (ii) a second queue of offers to sell ordered by price per currency unit and times of extending of the respective offers to sell, (c) operating the server computer to determine whether the trading offer matches any entry in the first queue and the second queue, and (d) upon detection by the server computer of a match between the trading offer and a particular entry in the one of the first queue and the second queue, operating the server computer to (i) modify accounts of traders who made the trading offer and the particular entry, (ii) remove the particular entry from the one of the first queue and the second queue, (iii)) transmit signals over the computer network to advise all logged-in traders of the match, and (iv) send specific confirmation to the traders who made the trading offer and the particular entry.

Silverman does not disclose or suggest that the same server computer that maintains queues of bids and offers and is operated to determine whether a trading offer matches any bid or offer in the queues also modifies accounts of traders who made trading offers on which a trade is executed. The central system (20) of Silverman does not maintain accounts. As recited in the very passage pointed to by the Examiner, the payments and exchanges are implemented by agencies other than the central system and outside of the Silverman trading network. The central system has no accounts to track or modify. The method of claim 55 thus contemplates a method that is outside the scope of and is inconsistent with the trading paradigm serviced by the Silverman method.

The Examiner evidently maintains that the act of transmitting a signal to a clearing agency to induce the clearinghouse to complete a transaction is tantamount to modifying

accounts. Appellant disagrees. Operating a server computer to modify accounts of traders is not the same as operating the server computer to send a signal to another computer that subsequently effects a modification of trader accounts.

9. CONCLUSION

In summary, Wagner does not anticipate claims 1, 4-8, 10-13, 58, and 61-66 and Silverman does not anticipate claims 16, 17, 22, 55, and 56.

For the foregoing reasons, the rejections of claims 1-8, 10-13, 16-25, and 55-66 under 35 U.S.C. §§ 102(b) and 103(a) are deemed to be improper. Appellant therefore requests that the Examiner be reversed and the application remanded for proceedings towards issuance.

Respectfully submitted,

COLEMAN SUDOL SAPONE, P.C.

Dated: June 1, 2004

By:____________________
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APPENDIX A

1. A method for trading a commodity, comprising:

receiving, in encoded form via a computer network, a plurality of bids and a plurality of offers pertaining to a common commodity;

displaying the bids and offers on a computer monitor;

generating a trading offer including a trading rate or price per unit of the commodity, and a number of units of the commodity;

automatically calculating a total stop amount for the trading offer, the total stop amount being a monetary amount required to cover a stop execution on the trading offer, the total stop amount including a primary quantity equal to a stop value multiplied by the number of units of the commodity included in the trading offer;

automatically comparing the total stop amount with an available amount in a client or trader account; and

transmitting a digital signal encoding the trading offer over the computer network for distribution to multiple traders.

2. The method defined in claim 1 wherein the calculating of the total stop amount includes computing the primary quantity and a slippage amount.

3. The method defined in claim 2 wherein the calculating of the slippage amount includes automatically multiplying a default slip per unit of the commodity times the identified number of units of the commodity in the trading offer.

4. The method defined in claim 1, further comprising automatically allocating or

reserving the total stop amount from the available amount in the client or trader account.

5. The method defined in claim 4, further comprising canceling at least a portion of the trading offer and automatically returning at least a portion of the allocated or reserved amount to the client or trader account upon such cancellation.

6. The method defined in claim 1 wherein the digital signal is transmitted upon and only upon a determination that the total stop amount is less than the available amount in the client or trader account.

7. The method defined in claim 1 wherein the generating of the trading offer and the comparing of the total stop amount with the available amount in the client or trader account are performed by a client or trader computer connected to the computer network.

8. The method defined in claim 1 wherein the transmitting of the digital signal includes directing the digital signal to a server computer connected to the computer network, the server computer distributing the trading offer to the traders.

10. The method defined in claim 1 wherein the trading offer additionally includes identification of the stop value as a stop amount per unit of the commodity.

11. The method defined in claim 1, further comprising:

displaying on the monitor a prompt for entry of a stop value; and

determining that a respective stop value has been selected for the trading offer,

forwarding, via the computer network, the respective stop value to a server computer together with the trading offer.

12. The method defined in claim 1, further comprising:

displaying on the monitor a prompt for entry of a limit value; and

determining that a respective limit value has been selected for the trading offer,

forwarding, via the computer network, the respective limit value to a server computer together with the trading offer.

13. The method defined in claim 1, further comprising:

displaying on the monitor a prompt for entry of a time period for which the trading offer remains valid and capable of being accepted;

determining that a respective time period has been selected for the trading offer;

determining when the time period is terminated; and

canceling the trading offer upon termination of the time period.

16. A method for trading currencies, comprising:

receiving, via a computer network, digital signals together encoding a plurality of bids and a plurality of offers pertaining to a common currency;

displaying the bids in a first monotonic sequence on a computer monitor;

simultaneously displaying the offers in a second monotonic sequence on the computer monitor;

monitoring a computer input device;

upon detecting a signal from the input device of a predetermined type encoding a trading order for requesting a transaction on one of the bids and the offers, automatically calculating a total currency amount for carrying out the order and comparing the total currency amount with a capital amount available in a given account to determine if the capital amount is sufficient; and

upon and only upon determining that sufficient capital is available in the account, transmitting an order signal over the computer network to a server computer, the order signal encoding the trading order for requesting a transaction on the one of the bids and the offers.

17. The method defined in claim 16, further comprising:

displaying on the monitor a plurality of prompts for particulars of a trading offer, the prompts including prompts to enter a price per unit of the currency and a total number of units of the currency;

determining entry via the input device of a trading offer including at least a price per currency unit and a total number of currency units; and

forwarding the trading offer over the computer network to multiple other traders on the computer network.

18. The method defined in claim 17, further comprising:

displaying on the monitor a prompt for entry of a stop value; and

determining that the trading offer includes a respective stop value,

the forwarding the trading offer including transmission of the respective stop value to the server computer.

19. The method defined in claim 17, further comprising:

displaying on the monitor a prompt for entry of a limit value; and

determining that the trading offer includes a respective limit value,

the forwarding the trading offer including transmission of the respective limit value to the server computer.

20. The method defined in claim 17, further comprising:

displaying on the monitor a prompt for entry of a time period for which the trading offer remains valid and capable of being accepted;

determining that the trading offer includes a respective time period;

determining when the time period is terminated; and

canceling the trading offer upon termination of the time period.

21. The method defined in claim 16 wherein the computer network is a global computer network, further comprising downloading from the computer network a program enabling and controlling the displaying of the bids and the offers on the computer monitor in response to the digital signals.

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22. A method for use in trading currencies, comprising:

displaying, on a computer monitor connected to a computer in turn connected to a computer network, a plurality of prompts for particulars of a trading offer, the prompts including prompt to enter a price per unit of a currency and a total number of units of the currency;

determining entry, via an input device of the computer, of a trading offer including at least a price per currency unit and a total number of currency units;

automatically determining whether sufficient capital exists in a given account of a trader utilizing the computer, to cover a trade executable on the trading offer for the total number of currency units; and

upon and only upon determining that sufficient capital exists in the given account, forwarding the trading offer over the computer network to other traders on the computer network.

23. The method defined in claim 22, further comprising:

displaying on the monitor a prompt for entry of a stop value; and

determining that the trading offer includes a respective stop value,

the forwarding the trading offer including transmission of the respective stop value to the server computer.

24. The method defined in claim 22, further comprising:

displaying on the monitor a prompt for entry of a limit value; and

determining that the trading offer includes a respective limit value,

the forwarding the trading offer including transmission of the respective limit value to the server computer.

25. The method defined in claim 22, further comprising:

displaying on the monitor a prompt for entry of a time period for which the trading offer remains valid and capable of being accepted;

determining that the trading offer includes a respective time period;

determining when the time period is terminated; and

canceling the trading offer upon termination of the time period.

55. A currency trading method comprising:

receiving at a server computer a first digital signal over a computer network from a client's computer, the first digital signal encoding a trading offer including identification of a currency, a trading rate or price per unit of the currency, and a number of units of the currency;

operating the server computer to maintain (i) a first queue of bids ordered by price per currency unit and times of extending of the respective bids and (ii) a second queue of offers to sell ordered by price per currency unit and times of extending of the respective offers to sell;

operating the server computer to determine whether the trading offer matches any entry in the first queue and the second queue; and

upon detection by the server computer of a match between the trading offer and a particular entry in the one of the first queue and the second queue, operating the server computer

to (a) modify accounts of traders who made the trading offer and the particular entry, (b) remove the particular entry from the one of the first queue and the second queue, (c) transmit signals over the computer network to advise all logged-in traders of the match, and (d) sending specific confirmation to the traders who made the trading offer and the particular entry.

56. The method defined in claim 55, wherein the trading offer is placed in a respective one of the first queue and the second queue upon receiving of the trading offer at the server computer, the operating of the server computer to determine whether the trading offer matches any entry in the first queue and the second queue including comparing the bids to the offers to sell to determine whether a match has occurred, the server being operated, upon detection by the server computer of the match between the trading offer and the particular entry, to remove the trading offer and the particular entry from respective ones of the first queue and the second queue.

57. The method defined in claim 55, further comprising operating the server computer to:

log in traders as log-in requests arrive;

supervise the establishment of multiple private chat forums; and

distribute messages among logged-in traders according to established chat forums.

58. A method for use in trading a commodity, comprising:

generating a trading offer;

automatically calculating a total stop amount for the trading offer, the total stop amount being a monetary amount required to cover a stop execution on the trading offer, the total stop

amount including a primary quantity equal to a stop value multiplied by an identified number of units of the commodity included in the trading offer;

automatically comparing the total stop amount with an available amount in a client or trader account to determine whether the total stop amount and the available amount meet pre-established criteria; and

acting on the trading offer only upon determining that the total stop amount and the available amount meet the pre-established criteria.

59. The method defined in claim 58 wherein the calculating of the total stop amount includes computing the primary quantity and a slippage amount.

60. The method defined in claim 59 wherein the calculating of the slippage amount includes automatically multiplying a default slip per unit of the commodity times the identified number of units of the commodity in the trading offer.

61. The method defined in claim 58, further comprising automatically allocating or reserving the total stop amount from the available amount.

62. The method defined in claim 61, further comprising canceling at least a portion of the trading offer and automatically returning at least a portion of the allocated or reserved amount to the client or trader account upon such cancellation.

63. The method defined in claim 58 wherein the acting on the trading offer includes

transmitting a digital signal encoding the trading offer over the computer network for distribution to multiple traders.

64. The method defined in claim 63 wherein the digital signal is transmitted upon and only upon a determination that the total stop amount is less than an available amount in the client or trader account.

65. The method defined in claim 58 wherein the generating of the trading offer and the comparing of the total stop amount the digital signal are performed by a client or trader computer connected to the network.

66. The method defined in claim 58 wherein the transmitting of the digital signal includes directing the digital signal to a server computer connected to the computer network, the server computer distributing the trading offer to the traders.